

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	WT Docket No. 06-203
Section 68.4(a) of the Commission's Rules)	
Governing Hearing Aid Compatible)	
Telephones)	
)	
Notice of Proposed Rulemaking)	
Released July 21, 2005)	

COMMENTS OF THE HEARING ACCESS PROGRAM

January 12, 2007

INTRODUCTION:

The Hearing Access Program's goal is to ensure appropriate accessibility for people who are hard of hearing and deaf. Our service is free unless technical assistance is needed.

DISCUSSION:

The Hearing Access Program offers the following Comments in response to the FCC's Wireless Telecommunications Bureau's Comment on Topics to be Addressed in the Hearing Aid Compatibility Report. The Hearing Access Program believes that the current rules are not strong enough, do not offer sufficient options for people with hearing loss and that the FCC needs to continue the implementation of benchmarks beyond 2008. The Hearing Access Program urges the FCC to:

1. Increase the minimum M and T rating to M4/T4.

The current rules require that cell phone providers must offer at least two handset models that have a minimum M3/T3 rating. The M rating (M3 or 4) represents microphone interference on a hearing aid and the T rating (T3 or 4) represents the hearing aid telecoil compatibility level. The higher the rating the better since there is less potential radio frequency ("RF") interference between the cell phone and the hearing aid. Both the C.D.M.A. and G.S.M. networks are able to offer cell phones with a T4 rating. (Please see Exhibit A.) Current FCC

regulations do not allow cell phone providers to offer a higher T rating than an M rating. The standard has been revised to allow for inconsistent T and M ratings. We urge the FCC at a minimum to approve the change in its rules.

Only the C.D.M.A. network providers (Sprint/Nextel and Verizon), however, offer the M4 rating. The G.S.M. network providers (Cingular and T-Mobile) are only able to achieve the M3 rating. The offering of the M3 rating is problematic. A person with a more profound hearing loss who has stronger hearing aids cannot use the M3 because the RF interference is too great for their hearing aids. Thus, someone with a more profound loss is not able to purchase a cell phone from a G.S.M. provider. This immediately narrows the offerings available and limits consumers contract and pricing opportunities.

Moreover, people with hearing loss can potentially pay higher phone prices for cell phone usage because of limited options. For example, they cannot take advantage of a "friends and family" program with friends or family who have a G.S.M. provider since they are forced to use a C.D.M.A. provider.

Parents of children with hearing loss are forced to select their provider based on which provider will offer an appropriate phone for their child or risk paying higher premiums for their child's phone. Many cell phone companies offer children's programs at reduced rates but require the parent to be a current client. Therefore for someone like myself who cannot switch from a G.S.M. provider since I need worldwide coverage, I am forced to forgo the attractive children's program my provider offers since it does not offer an M4 phone. Instead, I must purchase a cell phone for my daughter from a C.D.M.A. provider and pay \$49.95/month instead of \$9.95/month.

The consumer may also not have the opportunity to purchase the M4 phone if the G.S.M. provider offers the M4 technology in a year because the consumer maybe locked into a two-year contract with a C.D.M.A. provider. The C.D.M.A. provider has no incentive to allow the consumer to break a contract to join a competitor's network. The consumer's only option is to pay a higher monthly price to have a shorter contract in hopes of a potential change in the G.S.M. rating system. Shorter contracts have higher monthly fees or initial costs. Either way, the person with a hearing loss is FORCED to pay higher premiums for less service and options.

As I mentioned previously, C.D.M.A. technology also does not work in Europe. Thus the lack of M4 technology in the G.S.M. network has a chilling affect on people with hearing traveling abroad for either work or pleasure.

The two G.S.M. providers, Cingular and T-Mobile have said that they cannot achieve M4. But, one has to wonder if cell phone carriers are allocating sufficient resources to overcome this hurdle? How are they able to incorporate items such as a camera, MP3 player, Wi-Fi, videos in a cell phone but they cannot achieve

an M4 standard?

In addition, new developments are occurring that will also limit options for people who require a M4 rating. A recent CNNMoney.com article's headline prior to Apple's announcement of the iPhone was "How Apple could rock wireless". The article stated, "If Steve Jobs' Apple decides to build a wireless phone...The company has the chance to ***shake up not just the wireless device business - an industry*** dominated by the likes of Motorola and Nokia - ***it also could upend the entire wireless distribution model in the United States.***" (Emphasis added).

(http://money.cnn.com/2006/12/15/technology/pluggedin_mehta_iphone.fortune/index.htm?postversion=2006121515 The New York Times on January 11th stated that the iPhone has "a real shot at ***redefining the cell phone.***" (Emphasis added.)

(http://www.nytimes.com/2007/01/11/technology/11pogue.html?_r=1&oref=slogin

The iPhone is ONLY offered through Cingular and Cingular is in the G.S.M. network that does not offer a M4 rating. Therefore, anyone who requires an M4 rated phone will not be able to use this phone and will once again be left out of new technological developments.

M3 ratings are not an acceptable minimum standard and we respectfully request the FCC to sit down with the G.S.M. network providers to understand what resources and pressure the G.S.M. network providers are using on cell phone manufacturers to overcome the M4 hurdle.

2. Use best efforts to bring the FDA into the HAC conversation to ensure appropriate levels of RF Immunity Factors are available to hearing aid users.

While we understand the FCC has no authority over the FDA, we respectfully request that the FCC use its best efforts to bring the FDA into the conversation on HAC cell phones. True cell phone access for people who wear hearing aids cannot be accomplished without the FDA since the FDA regulates the hearing aid industry. Consumers will never have optimal reception without resolving the RF factor even if the FCC mandates an M4 rating.

It is my understanding that for a person with hearing aids to have optimal reception, their hearing aids need a RF rating of at least two. There is, unfortunately, no requirement for hearing aid manufacturers to have a rating of at least two, to advertise or promote the rating or to even inform audiologists of this issue.

At no time when our family recently went to purchase a cell phone for our daughter did any sales representative in any cell phone store advise us of this potential issue. Only upon contacting Linda Kozma Spytek at Gallaudet University's TAP Program did we learn of RF Immunity Factors.

When we contacted our daughter's audiologist, a world-renowned audiologist,

her response to this inquiry was:

I understand that this is what you were told but you need to know that absolutely no one I have spoken with including the manufacturers reps had ever heard of this before I asked them. I am not doubting it's importance but it is a new area for us. We have gone over the Manufacturers specs which are used by audiologists to select hearing aids and it is not one of things that is listed for ANY manufacturer. I am not questioning that they should it but so far, no one is doing it.

How can consumers resolve this issue if neither cell phone companies, hearing aid manufacturers nor audiologists share responsibility toward this issue? I could not have tried any harder to overcome the issues necessary to purchase an appropriate cell phone for my daughter but I just could not obtain all the information that I needed. It is just not possible without appropriate mandates from both the FCC and the FDA. (To date, we still have not purchased a cell phone for our daughter.)

3. Mandate specific placement of M and T ratings on in-store placards and in both cell phone network and cell phone providers' advertisements.

It is disappointing that T-Mobile has not embraced the spirit of promoting the M and T ratings on their cell phones. The attached copy of their placard (Exhibit B) fails to include the M and T rating as a feature but instead lists the information in tiny type in the lower right hand corner of the placard. The information is so small that I couldn't find it even when I knew to look for it. Imagine if I was unaware of the information?

None of the sales personnel at T-Mobile's store on 86th Street in New York City were aware that the phones offered the M and T features when our family visited the store. How could they be when the information appears to be an after thought? Only when I pursued the information did the Store Manager come out of the back room and point out the information to me. T-Mobile's regulator told me that this was a marketing decision and not part of the FCC mandate. The need for specific mandates is highlighted by this example. Some cell phone companies clearly do not embrace the spirit of the rules and will exploit whatever wiggle room they are given.

Also, I have not seen information on hearing aid compatibility in any cell phone advertisement.

4. Ensure all cell phones are hearing aid compatible.

All cell phones need to be HAC and achieve a M4/T4 rating just as all landline phones are mandated to be HAC. Cell phones were not widely used when these rules were initially implemented. An individual never knows what cell phone will

be available when they need it. Our daughter has been in situations where she has needed to use someone else's cell phone but couldn't because the cell phone was not HAC. What if this situation was life threatening? All cell phones need to be HAC.

CONCLUSION

The current FCC rules do not go far enough. Cell phones have become an integral part of our daily life. It is imperative that people with hearing loss are afforded the same options and opportunities as everyone else. It is clear that the current obstacles will never be overcome without the FCC's involvement. There is no market incentive for the cell phone companies to exceed the minimum requirements. When was the last time that the FCC was presented with any telecom company significantly exceeding the minimum regulations? It is wishful thinking to think that FCC regulation is no longer needed. Cell phones are critical for people to work, travel and function in today's world. Telecommunications need to apply to everyone equally and therefore the FCC needs to further strengthen the current mandates.

Respectfully Submitted,

Janice L. Schacter, Chair
Hearing Access Program
New York, NY

Exhibit A:

Phones and Hearing Aids (1 Letter)

Published: October 23, 2006

To the Editor:

Re “The Quagmire of Making International Cellphone Calls,” by Joe Sharkey (On the Road column, Business Day, Oct. 17):

If Mr. Sharkey thought he had difficulty deciphering the international cellphone networks, he should try buying a cellphone that works with hearing aids.

Effective Sept. 16, the Federal Communications Commission mandates that cellphone providers must offer at least two handset models that have a minimum M3/T3 rating. The M rating (M3 or 4) represents microphone interference on a hearing aid and the T rating (T3 or 4) represents the hearing aid telecoil compatibility level. The higher the rating, the better.

My daughter needs an M4/T4 rating. But M4/T4 is available only in the C.D.M.A. technology and not in G.S.M., which my daughter will need this summer in Europe. C.D.M.A. does not work in Europe.

Two G.S.M. providers, Cingular and T-Mobile, have said M4/T4 is not achievable. But one has to wonder if cellphone carriers are allocating sufficient resources to overcome this hurdle. How come they are able to put a camera, MP3 player and every other imaginable device in a cellphone, but they cannot overcome this hurdle?

While the network issue may be confusing for Mr. Sharkey, at least he has options. People who wear hearing aids do not.

Janice Schacter □ New York, Oct. 17, 2006

EXHIBIT B:

BlackBerry® 8700g™



Features

- ☐ myFaves™
- ☒ Text & Instant Messaging
- ☒ Speakerphone
- ☒ Bluetooth® Enabled
- ☐ Camera
- ☐ Memory Card Slot
- ☐ Music Player
- ☐ Voice Dialing
- ☒ Real Web Browsing
- ☒ E-mail
- ☐ Broadband-speed Wi-Fi
- ☐ Windows® Mobile

Rated for hearing aids: M3 & T3 (special order only)
Also available with prepaid service
Existing customers: Ask about our Upgrade Program

Notice:
1- Font Size
2- special order
3- why isn't this
feature listed?
all the other
features?

Nokia 6133



- ☒ myFaves™
- ☒ tzones™
- ☒ Text & Instant Messaging
- ☒ Speakerphone
- ☒ Bluetooth® Enabled
- ☒ Camera 1.3 Megapixel
- ☒ Picture Messaging
- ☒ Picture Caller ID
- ☒ Memory Card Slot
- ☒ Music Player
- ☒ Voice Dialing

Rated for hearing aids: M3 & T3 (special order only)
Existing customers: Ask about our Upgrade Program
Handset also available with prepaid service (feature limitations apply)